



BEST AVAILABLE COPY

PHN16952A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Johnson et al.
Serial No.: 09/778,131
Filed: February 6, 2001
For: DISPLAY DEVICE
Art Unit: 2871
Examiner: A. Schechter

Attorney Docket No.: PHN16952A

Mail Stop: **Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 CFR 1.137

Dear Sir:

In response to the Decision On Petition dated May 16, 2005, by which the Patent Office dismissed Petitioners first petition for revival of an application for patent abandoned unavoidably under 37 CFR 1.137(a), dated January 18, 2005, (hereinafter the "First Petition"), reconsideration is hereby respectfully requested.

Remarks in Support of this Renewed Petition begin on page 2 of this paper with a copy of the First Petition (w/related documents) of January 18, 2005, provided via Appendix hereto.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited this date with the United States Postal Service as first-class mail in an envelope addressed to:
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA VA 22313-1450

On 06/02/2005
(Mailing Date)

By [Signature]
(Signature)

REMARKS IN SUPPORT OF RENEWED PETITION

Reconsideration of the First Petition for Revival of an Application for Patent

Abandoned Unavoidably Under 37 CFR 1.137(a) in view of the following remarks is respectfully requested.

The Decision on Petition, in support of the dismissal of Petitioners' First Petition states:

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is 'unavoidably' abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.¹

In response, Petitioners' respectfully note that among the exemplary "unforeseen circumstances" listed in the above quote, the negligence of otherwise reliable employees is clearly identified as a justification for a claim of unavoidable circumstance. It follows then that it is clearly sufficient/adequate to establish an unavoidable delay by demonstrating that an unexpected circumstance, which circumstance arose from or through the unforeseen fault or imperfection of "worthy and reliable employees", resulted in a delayed payment of a required Issue Fee and

¹ See Decision on Petition, dated May 16, 2005, p. 2.

ultimately an unwanted abandonment of the present Application.² Petitioners' respectfully submit, contrary to that which is suggested by the Office, that the showing via the First Petition, was/is adequate to demonstrate that it was an unforeseeable/unexpected circumstance, and thus "unavoidable", for trained, worthy and reliable employees, in the course of practicing a well established business practice (i.e., authorizing payment of Fees due to the Patent Office via deposit account)³, to neglect to provide the appropriate deposit account number.

The Office, in the Decision on Petition, suggests that the "unforeseen circumstance" (i.e., the fault or imperfection of worthy and reliable employees) was not "unavoidable" due to the availability of "a general authorization to charge any necessary fees."⁴ In other words, the Office contends that a "reasonably prudent person" would not have relied on well-established business practices by which worthy and reliable employees provide requisite payment information, including an appropriate deposit account number, when authorizing a payment due to the Patent Office, but instead would have provided the Patent Office with a general authorization to charge all necessary fees.

² See *Id.* footnote 4 (citing *In re Mattullah*, 38 App. D.C. 497, 514-15 (1912)(quoting *Ex Parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), *aff'd*, 143 USPQ 172 (D.C.Cir. 1963); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (1913)).

³ The file history (i.e., the postcard receipt, the Issue Fee Transmittal of 4-29-02, the Amendment under 37 CFR 1.312 of 4-29-02, and the transmittal letter of 2-6-01) clearly evidence and/or establish a business practice of authorizing payments due to the Patent Office via deposit account.

⁴ See Decision on Petition, dated May 16, 2005, p. 3.

Petitioners respectfully disagree with the foregoing contention as to agree with such contention is to agree that the “reasonably prudent person standard” requires that one conform to what the Patent Office determines is reasonably prudent (e.g., provide the Patent Office with a general authorization to charge any necessary fees), and suggests that to do anything else is unreasonable under the noted standard. Petitioners respectfully submit that the “reasonably prudent person standard” should not be so narrowly construed as to, in effect, define “unavoidable” so that one’s reliance on worthy and reliable employees usually employed in an important business (e.g., the payment of an Issue Fee) is not considered an exercise of due care. Petitioners respectfully note that such a narrow interpretation is, in fact, contrary to that which is suggested via the references cited in the Decision on Petition.⁵

In sum, Petitioners respectfully request, based at least on the foregoing, reconsideration of their Petition under 37 CFR 1.137(a) filed January 18, 2005, by which Petitioners *(i)* provided the requisite Issue Fee of \$1580.00 (filed previously on April 29, 2002), *(ii)* provided the requisite Petition Fee of \$500.00, *(iii)* provided authorization to charge required fees to Deposit Account No. 14-1270, and, as elaborated on by way of this paper, *(iv)* provided the requisite showing of an unavoidable delay (i.e., (1) demonstrated the exercise of due care under the reasonably prudent person standard in relying on worthy and reliable employees in the performance of their responsibilities according to well established business practices, and (2) demonstrated that unexpectedly, or through the imperfection of such worthy and reliable employees, a failure occurred


⁵ See *supra*, note 2.

In Re Application of: Johnson et al.
Serial No.: 09/778,131
Filed: February 6, 2001
For: DISPLAY DEVICE
Art Unit: 2871
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Attorney Docket No.: PHN16952A

resulting in an unavoidable delay). Accordingly, granting of this Renewed Petition and issuance of the present Application is earnestly solicited.

Respectfully submitted,



David L. Barnes, Reg. No. 47,407
Attorney for Applicant(s)

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. Box 3001
Briarcliff Manor, NY 10510
Tel: (914) 333-9693
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www.ip.philips.com

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

PHN 16, 952A

First Named Inventor: MARK T. JOHNSON, ET AL.

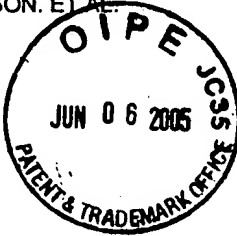
Application Number: 09/778,131

Filed: FEBRUARY 6, 2001

Title: DISPLAY DEVICE

Art Unit: 2871

Examiner: A. SCHECHTER



Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity - fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☒ Other than small entity - fee \$ 500.00 (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of
ISSUE FEE (identify the type of reply):

☐ has been filed previously on _____

☐ is enclosed herewith.

B The issue fee of \$ 1580.00

☒ has been filed previously on 04-29-02 (copy enclosed herewith)

C. The Commissioner is hereby authorized to charge required fees, or credit any overpayment to
Deposit Account No. 14-1270.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PC JAN 16 2005

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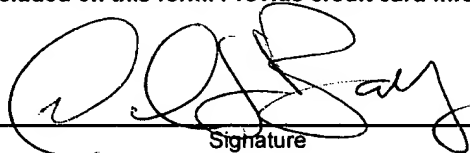
PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.



Signature

1-18-05

Date

DAVID L. BARNES

Typed or printed name

47,407

Registration Number, if applicable

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

Address

914-333-9693

Telephone Number

P.O. BOX 3001, BRIARCLIFF MANOR, NY, 10510

Address

- Enclosure ☒ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unavoidable delay
- ☐ _____

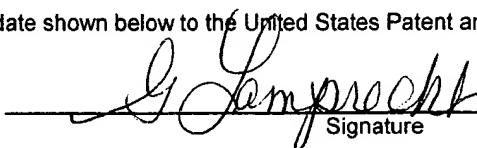
CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

01/18/2005
Date



Signature

G. LAMPRECHT

Typed or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

DAVID L. BARNES

Typed or printed name

1-18-05

Date

47,407

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

It is respectfully submitted that through an unexpected clerical error the entire delay in paying the Issue Fee for the herein- identified patent application from the due date for such payment until the filing of the present grantable petition was unavoidable.

By way of background, according to the Patent and Trademark Office (the "Patent Office"), a Notice of Allowance was mailed on 01-31-02. In response, an After Allowance Amendment under Rule 312, an Assignment (w/cover sheet), an Issue Fee Transmittal authorizing payment of the Issue Fee via Deposit Account, and a return request postcard receipt was filed 04-29-02 (Exhibit A). A Response indicating that the Rule 312 Amendment was entered was mailed on 05/01/02 (Exhibit B). A Notice indicating abandonment of the application for failing to timely pay the required Issue Fee was mailed on 05-31-02 (Exhibit C). Upon notice of the unexpected abandonment, Applicants timely filed a first request/petition Letter requesting reconsideration of such abandonment on 06-20-02 (Exhibit D). A first Petition Decision dismissing Applicants request/petition was mailed on 04-04-03 (Exhibit E). Upon receipt of the first Petition Decision, Applicants filed a second request/petition Letter again requesting reconsideration in view of further evidence was filed on 04-16-03 (Exhibit F). A second Petition Decision dismissing Applicants second request/petition was issued on 10-19-04 (Exhibit G), however, such decision was not received by Applicants until 01-05-05, after Applicants inquired with the Patent Office as to the status of the present application on 12-08-04 and again on 01-04-05 when Applicants were informed that notwithstanding the Patent Office having Applicants current mailing address, the Petition Decision of 10-19-04 was sent to an OLD correspondence address (Exhibit H).

As demonstrated at least by (i) the enclosed Issue Fee Transmittal (Exhibit A), which was timely filed on 04-29-02, and (ii) the copy of the postcard receipt (Exhibit A), Applicants clearly intended to authorize the payment of the Issue Fee via a Deposit Account. However, as the Deposit Account Number was unexpectedly omitted, such Issue Fee payment was, in view of the Patent Office, unauthorized (see Decision on Petition dated 04-04-03 (Exhibit E)). Thus, it is respectfully submitted that the omission of the Deposit Account Number was the cause in fact of the delay resulting in the abandonment of the present application.

Also, as further demonstrated by (i) the enclosed Issue Fee Transmittal, and more particularly (ii) the Assignment cover sheet, which authorizes charging the payment of fees to Deposit Account Number 14-1270, Applicants routinely utilize a Deposit Account in paying Patent Office fees.

Furthermore, Applicants respectfully submit, based at least on the foregoing discussion, that those involved in the preparing/filing of the Issue Fee Transmittal are/were sufficiently trained with regard to such preparation/filing that reliance thereupon with respect to them properly providing the Deposit Account Number is/was clearly an exercise in due care.

Accordingly, Applicants respectfully request revival of the present application.

(Please attach additional sheets if additional space is needed.)

Confirmation Report Memory Send



Time : Apr-29-2002 09:43
Tel line : 914-332-0615
Name : NA PHILIPHS ELECTRONICS

Job number : 119
Date : Apr-29 09:42
To : 87037464711
Document pages : 003
Start time : Apr-29 09:42
End time : Apr-29 09:43
Pages sent : 003
Status : OK
Job number : 119

*** SEND SUCCESSFUL ***

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(703) 746-4711

TO: EXAMINER: Andrew Schechter
EXAMINER'S TELEPHONE NUMBER: (703) 3068-5803
ART UNIT: 2871
SERIAL NO.: 09/778,131

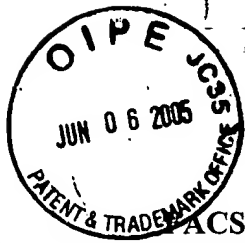
FROM: Aaron Waxler
REGISTRATION NUMBER: 48,027

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NEW YORK 10591
TELEPHONE: (914) 333-9608

I certify that these documents consisting of 3 pages (including this cover sheet and an amendment under 37 CFR § 1.312) is being transmitted via facsimile to the United States Patent and Trademark Office at the telephone number set forth above on 29 April, 2002.


Fax Operator

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(703) 746-4711

TO: EXAMINER: Andrew Schechter
EXAMINER'S TELEPHONE NUMBER: (703) 3068-5801
ART UNIT: 2871
SERIAL NO.: 09/778,131

FROM: Aaron Waxler
REGISTRATION NUMBER: 48,027

**PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NEW YORK 10591
TELEPHONE: (914) 333-9608**

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Fax Operator

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

MARK JOHNSON ET AL.

Serial No.: 09/778,131

Filed: February 6, 2001



Atty. Docket

PHN 16,952A

Art Unit: 2871

Examiner: A. SCHECHTER

Title: LCD IN WHICH THE TRANSPARENT ELECTRODE OF A PIXEL IS COATED WITH A CONDUCTING MATERIAL TO EQUALIZE ITS ELECTRODE WORK FUNCTION WITH THAT OF ANOTHER ELECTRODE, TO PREVENT FLICKER

Assistant Commissioner for Patents
Washington, D.C. 20231

AMENDMENT UNDER 37 CFR § 1.312

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Prior to issuance, please enter the following proposed amendment to the above-identified allowed patent application as follows:

IN THE TITLE

Please replace the current title with the following new title:

LCD IN WHICH THE TRANSPARENT ELECTRODE OF A PIXEL IS COATED WITH A CONDUCTING MATERIAL TO MODIFY ITS ELECTRODE WORK FUNCTION TO PREVENT FLICKER

REMARKS

This application has been carefully reviewed. As per the telephone conversation of April 26, 2002 with Examiner

Schechter, Applicants respectfully request that the above new title replace the current title. No new matter is suggested by this substitution.

In view of the foregoing, Applicants respectfully request favorable reconsideration. Please charge any additional fees which may now or in the future be required in this application, including extension of time fees and fees for claims added upon amendment, but excluding the issue fee unless explicitly requested to do so, and credit any overpayment, to Deposit Account No. 14-1270.

Applicants' undersigned agent may be reached by telephone at the number given below.

Respectfully submitted,

By 

Aaron Waxler

Reg. 48,027

(914) 333-9608

PART B - FEE(S) TRANSMITTAL

Complete and mail this form, together with applicable fee(s), to:

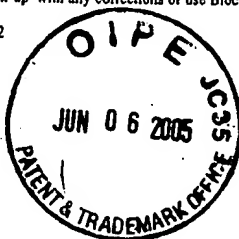
Box ISSUE FEE
Assistant Commissioner for Patents
Washington, D.C. 20231

MAILING INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

7590

01/31/2002

Corporate Patent Counsel, U.S.
Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

Note: The certificate of mailing below can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

Certificate of Mailing

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

G. LAMPRECHT	(Depositor's name)
<i>G. Lamprecht</i>	(Signature)
04/30/02	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,131	02/06/2001	Mark T. Johnson	PHN 16,952A	9848

TITLE OF INVENTION: LCD IN WHICH THE TRANSPARENT ELECTRODE OF A PIXEL IS COATED WITH A CONDUCTING MATERIAL TO EQUALIZE ITS ELECTRODE WORK FUNCTION WITH THAT OF ANOTHER ELECTRODE TO PREVENT FLICKER

TOTAL CLAIMS	APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
12	nonprovisional	NO	\$1280	\$300	\$1580	04/30/2002

EXAMINER	ART UNIT	CLASS-SUBCLASS
SCHECHTER, ANDREW M	2871	349-122000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. AARON WAXLER

2. _____

3. _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

KONINKLIJKE PHILIPS ELECTRONICS N.V.

EINDHOVEN, THE NETHERLANDS

Please check the appropriate assignee category or categories (will not be printed on the patent)

☐ individual ☒ corporation or other private group entity ☐ government

1a. The following fee(s) are enclosed:

- ☐ Issue Fee
- ☒ Publication Fee

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.

☒ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

The COMMISSIONER OF PATENTS AND TRADEMARKS is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

Authorized Signature

(Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

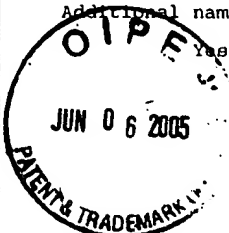



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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Form PTO 1595 (Rev. 6-93)	RECORDATION FORM COVER SHEET PATENTS ONLY	U.S. Dept. of Commerce Patent and Trademark Office						
To the Commissioner for Patents: Please record the attached original documents or copy thereof.								
<p>1. Name of conveying party(ies): U.S. PHILIPS CORPORATION</p> <p>Additional name(s) of conveying party(ies) attached? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	<p>2. Name and address of receiving party(ies): Name: KONINKLIJKE PHILIPS ELECTRONICS N.V. Street Address: GROENEWOUDSEWEG 1 City: 5621 BA EINDHOVEN Country: THE NETHERLANDS</p> <p>Additional name(s) & address(es) attached? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>							
<p>3. Nature of conveyance:</p> <table style="width: 100%;"> <tr> <td><input checked="" type="checkbox"/> Assignment</td> <td><input type="checkbox"/> Merger</td> </tr> <tr> <td><input type="checkbox"/> Security Agreement</td> <td><input type="checkbox"/> Change of Terms</td> </tr> <tr> <td><input type="checkbox"/> Other</td> <td></td> </tr> </table> <p>Execution Date: APRIL 9, 2002</p>	<input checked="" type="checkbox"/> Assignment	<input type="checkbox"/> Merger	<input type="checkbox"/> Security Agreement	<input type="checkbox"/> Change of Terms	<input type="checkbox"/> Other			
<input checked="" type="checkbox"/> Assignment	<input type="checkbox"/> Merger							
<input type="checkbox"/> Security Agreement	<input type="checkbox"/> Change of Terms							
<input type="checkbox"/> Other								
<p>4. Application number(s) or patent number(s):</p> <p>If this document is being filed together with a new application, the execution date of the application, is</p> <table style="width: 100%;"> <tr> <td style="width: 50%;">A. Patent Application No.(s) 09/778,131</td> <td style="width: 50%;">B. Patent No.(s)</td> </tr> <tr> <td>Additional numbers attached?</td> <td>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></td> </tr> </table>			A. Patent Application No.(s) 09/778,131	B. Patent No.(s)	Additional numbers attached?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
A. Patent Application No.(s) 09/778,131	B. Patent No.(s)							
Additional numbers attached?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>							
<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Name: PHILIPS ELECTRONICS NORTH AMERICA CORPORATION Street Address: 580 WHITE PLAINS ROAD City: TARRYTOWN State: NY Zip: 10591</p>	<p>6. Total number of applications and patents involved: 1</p> <p>7. Total fee (37 CFR 3.41) ...\$40.00</p> <table style="width: 100%;"> <tr> <td><input type="checkbox"/> Enclosed</td> <td><input checked="" type="checkbox"/> Authorized to Deposit Account</td> </tr> </table> <p>8. Deposit Account Number: <u>14-1270</u> (Attach duplicate copy of this page paying by deposit account)</p>		<input type="checkbox"/> Enclosed	<input checked="" type="checkbox"/> Authorized to Deposit Account				
<input type="checkbox"/> Enclosed	<input checked="" type="checkbox"/> Authorized to Deposit Account							
DO NOT USE THIS SPACE								
<p>9. Statement and signature.</p> <p>To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.</p> <table style="width: 100%;"> <tr> <td style="width: 40%;"> <p>Aaron Waxler, Reg. No. 48,027 Name of Person Signing</p> </td> <td style="width: 30%; text-align: center;">  Signature </td> <td style="width: 30%; text-align: center;"> <p>9/09/02 Date</p> </td> </tr> </table> <p>Total number of pages including cover sheet, attachments, and document: <u>2</u></p>			<p>Aaron Waxler, Reg. No. 48,027 Name of Person Signing</p>	 Signature	<p>9/09/02 Date</p>			
<p>Aaron Waxler, Reg. No. 48,027 Name of Person Signing</p>	 Signature	<p>9/09/02 Date</p>						

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

APR 30 2002

ASSIGNMENT

Docket No. **PHN 16952A**

U.S. PHILIPS CORPORATION, a Delaware Corporation having an office at 1251 Avenue of the Americas New York, NY 10020, in consideration of one dollar and other good and valuable consideration, the receipt of which is hereby acknowledged, hereby sells, assigns, and transfers the entire right, title, and interest in the following patent application to **KONINKLIJKE PHILIPS ELECTRONICS, N.V.**, having a place of business at Groenewoudseweg 1, 5621 BA Eindhoven, The Netherlands, its successors, assigns, and legal representatives, including any nominees (collectively the "Assignee"):

Application No.: 09/778,131

Filing Date: FEBRUARY 6, 2001

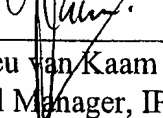
including all divisions, continuations, reissues, and extensions, and all patents granted on these applications.

The Assignor will provide its cooperation to enable the Assignee to enjoy the foregoing right, title, and interest to the fullest extent. Upon request of and at the expense of the Assignee, Assignor agrees to execute all papers, take all rightful oaths, testify in all legal proceedings including patent prosecutorial actions and infringement actions, and do all other such acts which may be necessary, desirable, or convenient for securing and maintaining patents on the foregoing invention or for perfecting title thereto in the Assignee. Assignor authorizes and requests that these patents be issued to the Assignee.

Assignor certifies that it has the full right to convey the above rights.

Dated: **9 April 2002**

U.S. PHILIPS CORPORATION

By 

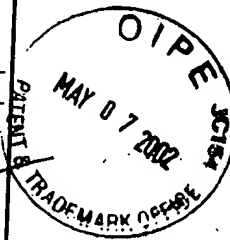
Matthieu van Kaam
General Manager, IP&S-US

IF

DOCKET NO. D16952A DIV. WOL SER. NO. 09/228,131

PLEASE DATE STAMP AND RETURN TO
ACKNOWLEDGE RECEIPT OF NOTED DOCUMENTS

Application	<input type="checkbox"/>	Amendment	<input type="checkbox"/>
<u> </u> Pages of		Issue Fee	<input checked="" type="checkbox"/>
spec., claims & abs.		Notice of Appeal	<input type="checkbox"/>
Con. Doc.	<input type="checkbox"/>	Extension	<input type="checkbox"/>
Drawings Inf.	<input type="checkbox"/>	Mailing Cert	<input checked="" type="checkbox"/>
No. Sh. For.	<input type="checkbox"/>	Assignment	<input type="checkbox"/>
Power of Att.	<input type="checkbox"/>	Decl. - signed	<input type="checkbox"/>
MLG. Date <u>4/30/02</u>		- unsigned ...	<input type="checkbox"/>





UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,131	02/06/2001	Mark T. Johnson	PHN 16,952A	9848

7590 05/01/2002

Corporate Patent Counsel, U.S.
Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

EXAMINER

SCHECHTER, ANDREW M

ART UNIT

PAPER NUMBER

2871

DATE MAILED: 05/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

2002 MAY -6 A 9:51

JK

Response to Rule 312 Communication	Application No.	Applicant(s)	
	09/778,131	JOHNSON ET AL.	
	Examiner	Art Unit	
	Andrew Schechter	2871	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The amendment filed on 29 April 2002 under 37 CFR 1.312 has been considered, and has been:

a) ☒ entered.

b) ☐ entered as directed to matters of form not affecting the scope of the invention.

c) ☐ disapproved because the amendment was filed after the payment of the issue fee.

Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

d) ☐ disapproved. See explanation below.

e) ☐ entered in part. See explanation below.

AS

Andrew Schechter
April 30, 2002



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,131	02/06/2001	Mark T. Johnson	PHN 16,952A	9848

7590 05/31/2002
Corporate Patent Counsel, U.S.
Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

EXAMINER

SCHECHTER, ANDREW M

ART UNIT PAPER NUMBER

2871

DATE MAILED: 05/31/2002

p #11

Please find below and/or attached an Office communication concerning this application or proceeding.

2002 JUN -6 A 10:44

DOCKETED	DATE	INITIAL
COMPUTER		<i>JA</i>
SECRETARY	6/12/02	<i>BS</i>
ATTORNEY	6/13/02	<i>me</i>

JK



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/778,131

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

p #11

NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
- ☐ A reply (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ No reply has been received.
- ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance.
 - ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d), is \$ _____.
 - ☒ The issue fee and publication fee, if applicable, has not been received.
- ☐ Applicant's failure to timely file new formal drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).
 - ☐ Proposed new formal drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - ☐ The proposed new formal drawings filed on _____ are not acceptable and the period for reply has expired.
 - ☐ No proposed new formal drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

ABANDONMENT
CONTACT PERSON IS:
TOM HAWKINS
305-8380

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Atty. Docket

MARK T. JOHNSON ET AL

PHN 16,952

Serial No.: 09/778,131

Art Unit: 2871

Filed: February 6, 2001

Examiner: A. SCHECHTER

Title: DISPLAY DEVICE

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

LETTER

In response to the Notice Of Abandonment mailed May 31, 2002, Applicants respectfully request reconsideration in that there was no abandonment in fact.

In particular, Applicants sent the Issue Fee Transmittal form PTOL-85B authorizing payment of the Issue Fee from Applicants' deposit account with a Certificate of Mailing dated April 30, 2002 (see copy enclosed). This Issue Fee Transmittal form was duly received by the U.S.P.T.O. on May 7, 2002, as shown by the enclosed copy of our Postcard Receipt. Since the Issue Fee authorization was sent prior to the expiration of the 3-month period from the Notice of Allowance, dated January 31, 2002 the issue fee was timely paid.

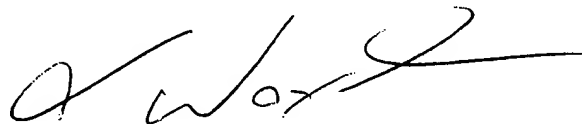
PC JUN 19 2002

Further enclosed herewith please find copies of the PTO 1595 Recordation Form Cover Sheet and Assignment form also submitted with the Issue Fee Transmittal on April 30, 2002.

In view of the above, Applicants contend that there was no abandonment in fact and respectfully request that this application be passed to issue.

Respectfully submitted,

by



Aaron Waxler, Reg. 48,027
Agent

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Commissioner of Patents and Trademarks,
Washington, D.C. 20231
on June 20, 2002

Burnett James



Paper No. 13

COPY MAILED

APR 03 2003

Director's Office
Office of Patent Publication

CORPORATE PATENT COUNSEL,
U S PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

In re Application of
Mark T. Johnson, et al.
Application No. 09/778,131
Filed: February 6, 2001
Attorney Docket No. PHN-16,952A

DECISION ON PETITION

This is a decision on the Letter, received in the United States Patent and Trademark Office (USPTO) on June 26, 2002, which is being treated as a Petition To Withdraw Holding Of Abandonment in the above-identified application.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely pay the issue fee as required in the NOTICE OF ALLOWANCE AND FEE(S) DUE, mailed January 31, 2002, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed May 31, 2002.

Petitioner states that the Applicants sent in the Issue Fee Transmittal form PTOL-85B authorizing payment of the Issue Fee from Applicant's deposit account with a Certificate of Mailing date April 30, 2002. Further, that the Issue Fee Transmittal form was received by the USPTO on May 7, 2002, as shown by the enclosed copy of the postcard receipt. In support of this assertion, Petitioner has submitted a copy of the Issue Fee Transmittal. The copy of the postcard receipt did not accompany the petition.

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

- MPEP 503 (postcard receipt as prima facie evidence)
- Certificate of Mailing under 37 CFR 1.8(b)
- "Express Mail" Mailing under 37 CFR 1.10

DOCKETED	DATE	INITIAL
COMPUTER	PC APR 03 2003	
SECRETARY	4/11/03	B
ATTORNEY	4/14/03	PHN

03 APR - 7 AM 8:23

37 CFR 1.8(b) requires that the petitioner provides that (1) the United States Patent and Trademark Office must be promptly informed of the previous timely mailing, (2) a copy of the previously mailed correspondence with certificate of mailing thereon must be submitted, and (3) include a statement which attests to the previous timely mailing

Consequently, 37 CFR 1.8(b) is not applicable to the circumstances of the petitioner's mailing via certificate of mailing, in that the petitioner did not include an attesting statement.

MPEP 503 is not applicable, since a copy of the postcard receipt was never received.

Also, the Petitioner's copy of the Issue Fee Transmittal reveals that the Deposit Account Number was omitted.

The rules as amended provided a safely mechanism where it is clear that an applicant intended to pay the issue fee. In this regard, 37 CFR 1.311(b)(1) and (b)(2) provides that, where an applicant intends to pay the issue fee by submission of either an incorrect fee or a completed Office-provided issue fee transmittal form (where no issue fee has been submitted), a general authorization to pay fees or a specific authorization to pay the issue, submitted prior to the mailing of a notice of allowance, will be allowed to act as payment of the correct fee.

Unfortunately, the application file does not reveal that an authorization, which can be construed as a general authorization to charge any required fees or specifically the issue fee, was ever provided.

In view of the petitioner non-compliance with 37 CFR 1.8(b), MPEP 503 and a general authorization to charge the issue fee was not provided, the holding of abandonment cannot be withdrawn.

Petitioner should note the new rules pertaining to authorizations for issue fee payment effective November 7, 2000. Note 65 FR 57024, September 20, 2000, and 37 CFR 1.311¹.

The petitioner should consider petitioning the Commissioner as follows:

File a petition for Revival of Abandoned Application or Lapsed Patent under CFR § 1.137 (a) or (b).

■ Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application must include the following:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

■ Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application must be:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

By facsimile: 703-308-6916
Attn.: Office of Petitions

By hand: Crystal Plaza Four, Rm 3C23
2201 South Park Place
Arlington, VA

Telephone inquiries concerning this matter may be directed to the Office of Petitions at 703-305-9282.



Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

¹ § 1.311 Notice of Allowance

(b) An authorization to charge the issue fee or other post-allowance fees set forth in § 1.18 to a deposit account may be filed in an individual application only after mailing of the notice of allowance. The submission of either of the following after the mailing of a notice of allowance will operate as a request to charge the correct issue fee to any deposit account identified in a previously filed authorization to charge fee:

- (1) An incorrect issue fee; or
- (2) A completed Office-provided issue fee transmittal form (where no issue fee has been submitted).

[47 FR 41279, Sept. 17, 1982, effective Oct. 1, 1982; para. (b) revised, 65 FR 54604, Sept 8, 2000, effective Nov. 7, 2000; revised, 65 FR 57024, Sept. 20, 2000, effective Nov. 29, 2000]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Atty. Docket

MARK T. JOHNSON ET AL

PHN 16,952

Serial No.: 09/778,131

Art Unit: 2871

Filed: February 6, 2001

Examiner: A. SCHECHTER

Title: DISPLAY DEVICE

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

LETTER

In response to the Decision on Petition mailed April 3, 2003, and with respect to the Notice Of Abandonment mailed May 31, 2002, Applicants respectfully request reconsideration in that there was no abandonment in fact.

In particular, Applicants sent the Issue Fee Transmittal form PTOL-85B authorizing payment of the Issue Fee from Applicants' deposit account with a Certificate of Mailing dated April 30, 2002 (see copy enclosed). This Issue Fee Transmittal form was duly received by the U.S.P.T.O. on May 7, 2002, as shown by the enclosed copy of our Postcard Receipt. Since the Issue Fee authorization was sent prior to the expiration of the 3-month period from the Notice of Allowance, dated January 31, 2002 the issue fee was timely paid.

APR 16 2003

S:\WX\Amendments\2002 Amendments\16952A.regreconsiderabandon.doc

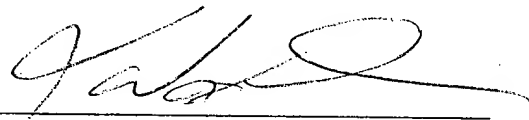


The Decision on Petition states that a copy of the postcard receipt did not accompany the previous petition mailed June 20, 2002. Applicants respectfully believe that this letter satisfies the requirements under 37 CFR 1.10.

Further enclosed herewith please find copies of the PTO 1595 Recordation Form Cover Sheet and Assignment form also submitted with the Issue Fee Transmittal on April 30, 2002.

In view of the above, Applicants contend that there was no abandonment in fact and respectfully request that this application be passed to issue.

Respectfully submitted,

By  4/5/03

Aaron Waxler, Reg. 48,027
Agent

CERTIFICATE OF MAILING

It is hereby certified that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to:

COMMISSIONER FOR PATENTS
Washington, D.C. 20231

On April 16, 2003

By Burnett James

To: Gigi Lamprecht
(914) 333-9619
(914) 332-0615 (fax)

From: Andrew Schechter
(571) 272-2302

Re: 09/778,131

Contents: 3 pages (including this cover)



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 15

COPY MAILED**OCT 1 8 2004**
 Director's Office
 Office of Patent Publication

**CORPORATE PATENT COUNSEL
 U S PHILIPS CORPORATION
 580 WHITE PLAINS ROAD
 TARRYTOWN, NY 10591**

In re Application of :
 Mark T. Johnson, et al. : **DECISION ON PETITION**
 Application No. 09/778,131 :
 Filed: February 6, 2001 :
 Attorney Docket No. PHN-16,952A :

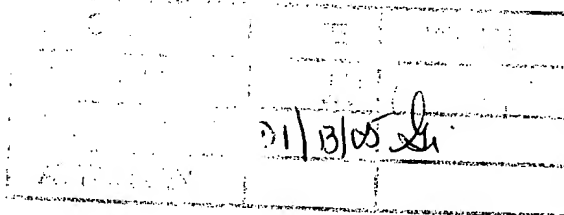
This is a decision on the Letter, received in the United States Patent and Trademark Office on April 21, 2003, which request reconsideration of the Decision On Petition mailed April 3, 2003.

The Request is **DISMISSED**.

The Decision on Petition, mailed April 3, 2003, dismissed the applicant's Petition to Withdraw Holding Of Abandonment (submitted as Letter), received on June 26, 2002, in view of the petitioner's non-compliance with 37 CFR 1.8(b), MPEP 503 and no general authorization to charge the issue fee, as required under 37 CFR 1.311(b).

Petitioner again states that the Applicants sent in the Issue Fee Transmittal form PTOL-85B authorizing payment of the Issue fee from Applicant's deposit account with a Certificate of Mailing date April 30, 2002. Further, that the Issue Fee Transmittal form was received by the USPTO on May 7, 2002, as shown by the enclosed copy of the postcard receipt.

Petitioner has submitted a copy of the return post card receipt, which acknowledges receipt of the Issue Fee on May 7, 2002, as evidenced by the "Office Date" stamp thereon. Also submitted is a copy of the PTO 1595 Recordation Form Cover Sheet and Assignment. Petitioner believes that this letter satisfies the requirements under 37 CFR 1.10.



05 JAN 11:50

Application No. 09/778,131

Page 2

The holding of abandonment will not be withdrawn due to the following:

- The post card acknowledge receipt of the Issue Fee by the USPTO, however, it doesn't support the timeliness of the Fee(s) Transmittal and payment thereof
- 37 CFR 1.10 Express Mail is not applicable, since there is no evidence supporting the use of this procedure
- Omission of the Deposit Account Number on the Fee(s) Transmittal and no general authorization to charge such fees. See 37 CFR 1.311(b)
- The Recordation Form doesn't provided a general authorization to charge such fees within the meaning of 37 CFR 1.311(b)

Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, which states:

As an additional aid to applicants, the rule as proposed has been further amended to include §§ 1.311(b)(1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee such as by submitting an incorrect issue fee amount, or completing the issue fee transmittal form provided by the Office with the notice of allowance, a general authorization to pay fee or a specific authorization to pay the issue fee, submitted prior to the mailing of the notice of allowance, will be allowed to act a payment of the correct issue fee.

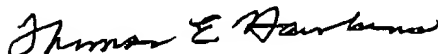
Petitioner should consider filing a Petition for Revival Of Abandoned Application under 37 CFR 1.137.

Further correspondence or inquires with respect to filing a Petition For Revival Under 37 CFR 1.137 should be directed to the Office of Petitions at 703-305-9282 or 9283 or as follows:

By mail:

Commissioner for Patents
P O Box 1450
Mail Stop Petitions
Alexandria, VA 22313-1450

Telephone inquires concerning this decision should be directed to the undersigned at 703-305-8380.



Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

MEMO TO FILE PHN 169: 3

12/08/2004 - CALLED EX. SCHECHTER TO CHECK ON THE STATUS OF THIS CASE; HE TOLD ME HE ORDERED THE FILE WRAPPER AND WILL GET BACK TO ME WITHIN THE NEXT FEW WEEKS.

PAM - CAN YOU RE-SET THE TIME FOR ONE MONTH FROM TODAY?

THANKS,
GIGI

01/04/05 - call Ex Schechter back - even though
USTDO has our current address the
Petition to Dismiss from PTD was sent to
580 - Ex to see if he can get it re-mailed.
He'll call me back in a few days - G.

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